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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/774,169

02/05/2004

Anat Bremler Bar

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7590 05/28/2009
ABELMAN, FRAYNE & SCHWAB
666 Third Ave., 10th Floor
New York, NY 10017

EXAMINER

NGUYEN, THUONG

ART UNIT

PAPER NUMBER

2455

MAIL DATE

DELIVERY MODE

05/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAN TOUITOU
AND RAMI RIVLIN

Application No. 10/774,169
Technology Center 2455

Mailed: May 28, 2009

Before DELORES LOWE, *Review Team Paralegal*
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on May 5, 2009. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing is identified below.

AMENDMENT

A review of the file indicates that on October 10, 2007, Appellants filed an Amendment in response to an Office action dated August 6, 2007. It is not clear whether this Amendment has been considered because an Advisory Action has not been mailed. Clarification from the Examiner is required.

APPEAL BRIEF, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed November 6, 2008 under the heading “Grounds of rejection to be reviewed on appeal” is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action, including any mailed Advisory Action(s) finds that claims 1, 4-11, 21-22, 25-26, 28-35, 38-45, 55-56, 59-60, 62-69, 72-79, 89-90, 93-94, 96-103, 105 & 107 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyle (Patent No. 6,886,102 B1) in view of Smithson, (Patent No. 6,886,099 B1); Claims 12-13, 46-47, and 80-81 are rejected under 35 U S.C. 103(a) as being unpatentable over Lyle in view of Smithson and further in view of Porras (Patent No. 6,321,338 B1); Claims 14-20, 23-24, 48-54, 57-58, 82-88 and 91-92 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Lyle, in view of Smithson, and further in of Trcka (2001/0039579 A1); and Claims 104, 106 & 108 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyle, in view of Smithson, and further in view of Bartleson (Patent No. 6,934,857 B1); whereas Appellants have not indicated the grounds of rejection of these. Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

Clarification of the record is required for all Grounds of rejection to be reviewed on appeal for all claims.

Accordingly, it is ORDERED that the application be returned to the Examiner:

- 1) appropriately respond to the Amendment filed October 10, 2007;
- 2) to hold the Appeal Brief filed on November 6, 2008 defective;
- 3) notify Appellants to file a paper properly addressing the Grounds of rejection of all claims;
- 4) vacate the Examiner's Answer mailed January 15, 2009;
- 5) to generate a new Examiner's Answer setting forth the correct Grounds of rejection to be reviewed on appeal and to correct other sections of the Answer as may be required;
- 6) and to include the approval of the TC Director or his/her designee (as required for any new grounds of rejection); and
- 7) such further action as may be required.

Application No. 10/774,169

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

/DAL/

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